

Your Rights

Criminal Division

TEMPE MUNICIPAL COURT

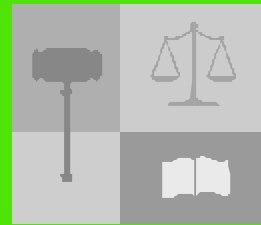
Criminal Division

140 East 5th Street, Suite 200

Tempe, Arizona 85281

(480) 350-8270

(480) 350-2789 Fax



THE ARRAIGNMENT

Under Arizona law, you can be brought to trial only after a formal citation or complaint has been filed. The citation or complaint is a document that states the charge(s) against you and alleges that your actions were unlawful. If you were given a citation/complaint by a police officer, the arraignment date will be the appearance date on your citation/complaint. If you received a summons from the Court, your arraignment date will be the court date indicated on your summons. If you are released from jail, your release order will have your court date on it.

Before the Court can consider your case, you must enter a plea. There are three possible pleas to a criminal charge:

NOT GUILTY

NO CONTEST (*nolo contendere*)

GUILTY

Your decision on what plea to enter is one of the most important decisions you will make. We suggest you read the following explanations before entering your plea.

No witnesses are present at arraignment and no testimony will be taken. The judge at arraignment will not grant a defendant's request to dismiss any charges. Instead, you must decide upon and enter a plea to the charge against you.

Diversion Programs

For some offenses, programs offered by the City Prosecutor's Office provide an alternative to the normal trial process. If you are eligible for these programs, information will be provided at the arraignment.

Plea of Not Guilty

A plea of "Not Guilty" means that you are informing the Court that you deny guilt and the State (Prosecutor's Office) must prove the criminal charge(s) against you. Under our American system of justice, all persons are presumed to be innocent until proven guilty beyond a reasonable doubt. On a plea of "Not Guilty," a pre-trial conference will be scheduled, followed by a trial setting. At trial, the State will be required to present evidence to prove all charges against you beyond a reasonable doubt.

If you plead "Not Guilty", you must decide whether to employ an attorney to represent you. You may defend yourself, but no one except an attorney may represent you.

In certain types of cases, a court appointed attorney may be provided for you. In those cases, if you feel that you cannot afford an attorney and wish representation, you may fill out an application requesting that an attorney be appointed to represent you.

If an attorney is appointed to represent you, you may be ordered to contribute to the cost of your attorney.

If you choose to represent yourself, please consult this brochure carefully regarding trial procedure and the proper manner of presenting your case.

Plea of Guilty

By a plea of “Guilty”, you admit that you committed the act charged in the complaint(s), that the act is prohibited by law, and that you have no legal defense for your act.

If you were involved in an incident where someone was injured at the time of the alleged offense, your plea of “Guilty” could be used later in a civil suit for damages as an admission by you that you were at fault or were the party responsible for the injury.

Plea of No Contest

A plea of “No Contest”, also known as “Nolo Contendere,” simply means that you do not wish to contest the State’s charge against you. Upon a plea of “No Contest”, the Judge will enter a judgment of guilty.

If you enter a plea of “Guilty” or “No Contest”, you may be sentenced immediately following the judge’s acceptance of your plea.

THE PRE-TRIAL CONFERENCE

You and your attorney will be given an opportunity to meet with a Prosecutor to review the facts supporting the State’s criminal charges against you. If you have not already been provided with a settlement offer by the Prosecutor’s Office at arraignment, you may be provided with one at the pre-trial conference (PTC). At the PTC, you are entitled to review a copy of the complaint(s), any written police reports, accident reports, and any other evidence that the State intends to use at the trial. Witnesses do not attend the pre-trial conference, and no testimony is taken. You are not required to discuss the facts of your case with the Prosecutor, since anything you say to them could be used against you in further proceedings.

You have three options at PTC.

1. You have the option of accepting the Prosecutor’s settlement offer, which routinely contains the sentence you will receive (upon acceptance by the Judge).
2. You can reject the Prosecutor’s offer and change your plea of “Not Guilty” to “Guilty” or “No Contest” directly to the Judge without agreeing on a sentence with the Prosecutor. Following the acceptance of your plea, you will be sentenced by the Judge.
3. You can maintain your plea of “Not Guilty” and have the case set to trial.

THE TRIAL

Depending on the alleged offense, you will be entitled to a jury trial or non-jury trial. You are entitled to hear all testimony introduced against you. You have a right to cross-examine any witness who testifies against you. You have a right to testify on your own behalf. You also have a Constitutional right not to testify. If you choose not to testify, your refusal cannot and will not be used against you in determining your guilt or innocence. However, if you do choose to testify, the Prosecutor will have the right to cross-examine you.

You may call witnesses to testify on your behalf. You have the right to have the Court issue subpoenas for witnesses to ensure their appearance at trial. Requests for subpoenas to be issued should be made well in advance of your trial so that you have time to have the subpoenas properly served.

PRESENTING THE CASE

If you are represented by an attorney, you will be advised regarding the presentation of your case. If not, you need to be aware of the following:

The State will present its case first by calling witnesses to testify against you. After each prosecution witness has finished giving testimony, you will have the right to cross-examine the witness. Your examination must be in the form of questions about their testimony. Do not argue with the witness. Do not attempt to tell your side of the story at this time. You will have an opportunity to tell your version of the facts later in the trial.

After the prosecution has presented its case, you may present your case. You have the right to call witnesses of your

choosing. It is at this point that you may testify on your own behalf if you desire.

Following the defense case, the State may, if it wishes, then present rebuttal evidence.

At the end of the trial, you may have an opportunity to summarize your case to the jury, or, in a non-jury case, to the Judge. At that time, you may present any arguments which are based on the evidence presented during the trial in order to show that the state did not prove you guilty.

The State is required to prove the charge(s) against you beyond a reasonable doubt.

The judgment or verdict will be based on the facts and evidence presented during the trial. Only the evidence admitted by the Court and the testimony of witnesses who are under oath can be considered.

If you are found not guilty, the case ends. If you are found guilty, you will be sentenced. The sentencing can take place at the time you are found guilty, or on a later date.

SENTENCING

The amount of any jail sentence, fine, fee, restitution, or probation assessed by the Court is affected by the facts and circumstances of the case and your prior criminal record. Mitigating circumstances may lower the amount of jail, fine, or probation. However, aggravating circumstances may increase the amount of jail, fine, or probation.

For some offenses, there are statutory minimum sentences which the Judge must impose. In no instance will sentences exceed the maximum levels of \$2,500 fine plus surcharges and/or 6 months in jail and/or 5 years probation, plus restitution and jail fees, if applicable.

Payment of Your Monetary Sentence

If you are ordered to pay a fine, fee, and/or restitution, **payment in full is required on the day of sentencing.** Payment on any financial sentence may be made by cash, check, money order, credit/debit card. If you meet certain financial requirements, you may be allowed some time to pay. However, a time payment fee will be added to the amount that you owe. Failure to comply with a payment schedule will result in additional Court proceedings and possible sanctions for non-compliance. This may include, but is not limited to a warrant being issued for your arrest, the suspension of your driver's license, referral to a collection agency, the attachment of your Arizona income tax refund, and any other legally appropriate collection actions against you, your income or your property. If the Court refers your account to a collection agency or the Arizona Department of Revenue, additional collection fees will be added to your account balance.

Restitution

You may be required to pay restitution for any damage or economic loss suffered by a victim. All restitution payments must be made to the Court for disbursement to the victim. If you have an insurance company which will pay the restitution portion of your sentence, it must make payment directly to the Court or provide proof of payment so that the Court can accurately record payment of this portion of your sentence.

APPEAL

Following a trial, you have the right to appeal a final judgment of this Court to the Maricopa County Superior Court. The Notice of Appeal must be filed within 14 calendar days of the judgment against you. The Judge in your case will advise you of your appeal rights following sentencing in your case. If you decide to appeal, you will be advised as to what fees apply.

In ruling on your appeal, the Superior Court will review the issues of law arising from your trial or hearing. Your appeal will not result in a retrial of the facts and you will not be allowed to present new evidence or testimony on appeal.